

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index #
Date Filed:

-----X
MANUEL A. RODRIGUEZ,

SUMMONS

Plaintiff,

The basis of venue is Place
of occurrence.

-against-

THE COUNTY OF ROCKLAND, TOWN OF
CLARKSTOWN POLICE DEPARTMENT, EAN
HOLDINGS LLC AND WILLIAM A. GOMEZ,

Place of occurrence:
West 170th Street at its
intersection with Plimpton
Avenue, Bronx, New York.

Defendants,
-----X

County of Bronx.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on plaintiff's attorneys within 20 days after service of this summons, exclusive of the day of service, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

DATED: Brooklyn, New York
June 17, 2019

Yours, etc.,

OFSHTEIN LAW FIRM, P.C.
Attorney for Plaintiff(s)
MANUEL A. RODRIGUEZ
15 Bay 29th Street, 2nd Floor
Brooklyn, NY 11214
(718)455-5252
File # 19MVX5058

BY:

AKIVA OFSHTEIN, ESQ

DEFENDANTS' ADDRESSES:

THE COUNTY OF ROCKLAND,
1 SOUTH MAIN STREET, SUITE 100
NEW CITY, NY 10956

TOWN OF CLARKSTOWN POLICE DEPARTMENT
20 MAPLE AVENUE
NEW CITY, NY 10956

EAN HOLDINGS LLC
14002 EAST 21ST STREET
TULSA, OK 74134

WILLIAM A. GOMEZ
170 SOUTH STREET
GOSHEN, NY 10924

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
MANUEL A. RODRIGUEZ,

Plaintiff,

VERIFIED COMPLAINT

Index No.:

-against-

THE COUNTY OF ROCKLAND, TOWN OF
CLARKSTOWN POLICE DEPARTMENT, EAN
HOLDINGS LLC AND WILLIAM A. GOMEZ,

Defendants,
-----X

Plaintiff, MANUEL A. RODRIGUEZ, by his attorneys, OFSHTEIN LAW FIRM,
P.C., complaining of the Defendants, THE COUNTY OF ROCKLAND, TOWN OF
CLARKSTOWN POLICE DEPARTMENT, EAN HOLDINGS LLC and WILLIAM A. GOMEZ
herein, respectfully alleges upon information and belief as follows:

1. Plaintiff, **MANUEL A. RODRIGUEZ**, was and still is a resident of the County of Bronx, City and State of New York.
2. Defendant **WILLIAM A. GOMEZ** was and still is a resident of the County of Orange, City and State of New York.
3. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of Oklahoma, with a principal office in Tulsa County.
4. Defendant, **THE COUNTY OF ROCKLAND**, was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

5. Defendant, **TOWN OF CLARKSTOWN POLICE DEPARTMENT**, was and still is an agency of defendant, **THE COUNTY OF ROCKLAND**.

6. Defendant, **TOWN OF CLARKSTOWN POLICE DEPARTMENT**, was and still is a department of defendant, **THE COUNTY OF ROCKLAND**.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS THE COUNTY OF ROCKLAND, TOWN OF CLARKSTOWN POLICE DEPARTMENT AND WILLIAM A. GOMEZ

7. That on March 29, 2019, a Notice of Claim herein, pursuant to statute as in such cases made and provided, was duly served on the office of County of Rockland, within ninety (90) days from the date of the accident and that said Defendant, **THE COUNTY OF ROCKLAND AND TOWN OF CLARKSTOWN POLICE DEPARTMENT**, has failed, refused and neglected to make any adjustments and/or payments for thirty (30) days after the due presentation of the Notice of Claim and that his action has been commenced within one (1) year and ninety (90) days after the cause of action accrued.

8. That on June 05, 2019, an examination of the plaintiff was conducted by the office of Wilson, Elser, Moskovitz, Edelman and Dicker, LLP attorneys for Defendants, **THE COUNTY OF ROCKLAND AND TOWN OF CLARKSTOWN POLICE DEPARTMENT**, York pursuant to section 50-h of the General Municipal Law.

9. That on January 30, 2019, Defendants, **THE COUNTY OF ROCKLAND AND TOWN OF CLARKSTOWN POLICE DEPARTMENT**, were the owners of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

10. That on January 30, 2019, Defendants, **THE COUNTY OF ROCKLAND**

AND TOWN OF CLARKSTOWN POLICE DEPARTMENT, were the lessors of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

11. That on January 30, 2019, Defendants, **THE COUNTY OF ROCKLAND AND TOWN OF CLARKSTOWN POLICE DEPARTMENT**, were the lessees of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

12. That on January 30, 2019, Defendants, **THE COUNTY OF ROCKLAND AND TOWN OF CLARKSTOWN POLICE DEPARTMENT**, controlled the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

13. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was the operator of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

14. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

15. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the knowledge of defendant owners.

16. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the permission of defendant owners.

17. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the express consent of defendant owners.

18. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the implied consent of defendant owners.

19. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was operating and controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, on West 170th Street at its intersection with Plimpton Avenue, Bronx, New York.

20. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was operating and controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, within the scope of his employment.

21. At the aforesaid date and place, Plaintiff, **MANUEL A. RODRIGUEZ**, was lawfully operating a 2015 Toyota, motor vehicle bearing State of New York registration number T663494C, on West 170th Street at its intersection of Plimpton Avenue, Bronx, New York, when defendant's motor vehicle forcibly struck the vehicle of the plaintiff causing a collision.

22. Plaintiff, **MANUEL A. RODRIGUEZ**, was injured.

23. Plaintiff, **MANUEL A. RODRIGUEZ**, was seriously injured.

24. Plaintiff, **MANUEL A. RODRIGUEZ**, has sustained a serious injury as defined by Article 51 of the Insurance Law, or economic loss greater than basic economic loss as defined by Article 51 of the Insurance Law.

25. This action falls within one or more of the exceptions set forth in CPLR 1602.

26. The aforesaid occurrence and resulting injuries to the plaintiff were due solely to the carelessness, recklessness and negligence of the defendants in the ownership,

operation, management, inspection, maintenance, supervision, repair and control of the above mentioned motor vehicle.

27. By reason of the foregoing, Plaintiff, **MANUEL A. RODRIGUEZ**, has been damaged in a sum which exceeds the jurisdictional limits of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS EAN HOLDINGS LLC AND WILLIAM A. GOMEZ

28. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a professional corporation duly organized and existing under and by virtue of the laws of the State of Oklahoma, with a principal office in Tulsa County.

29. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a duly authorized foreign corporation doing business in the State of Oklahoma with a principal office in Tulsa County.

30. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a duly authorized foreign corporation transacting business in the State of Oklahoma.

31. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, does and/or solicits business within the State of Oklahoma.

32. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, derives substantial revenue from goods used or consumed or services rendered in the State of Oklahoma.

33. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, expected or reasonably should have expected its acts and business activities to have consequences within the State of Oklahoma

34. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**., derives substantial revenues from interstate or international commerce.

35. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a domestic limited liability company duly organized and existing under and by virtue of the laws of the State of Oklahoma, with a principal office in Tulsa County.

36. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a duly authorized foreign limited liability company duly organized and existing under and by virtue of the laws of the State of Oklahoma, with a principal office in Tulsa County.

37. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a duly organized general partnership existing and doing business under and by virtue of the laws of the State of Oklahoma.

38. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still is a duly organized limited partnership existing and doing business under and by virtue of the laws of the State of Oklahoma.

39. At all times herein mentioned, Defendant, **EAN HOLDINGS LLC**, was and still a duly organized proprietorship existing and doing business under the laws of the State of Oklahoma.

40. That on January 30, 2019, Defendant, **EAN HOLDINGS LLC**, was the registered owner of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

41. That on January 30, 2019, Defendant, **EAN HOLDINGS LLC**, was the lessor of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

42. That on January 30, 2019, Defendant, **EAN HOLDINGS LLC**, was the lessee of a

2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

43. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was the operator of a 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

44. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767.

45. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the knowledge of defendant owner.

46. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the permission of defendant owner.

47. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the express consent of defendant owner.

48. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, with the implied consent of defendant owner.

49. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was operating and controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, on West 170th Street at its intersection of Plimpton Avenue, Bronx, New York.

50. That on January 30, 2019, Defendant, **WILLIAM A. GOMEZ**, was operating and controlling the 2018 Volkswagen, motor vehicle bearing State of New York registration number HPD3767, within the scope of his employment.

51. At the aforesaid date and place, Plaintiff, **MANUEL A. RODRIGUEZ**, was lawfully operating a 2015 Toyota, motor vehicle bearing State of New York registration number T663494C, on West 170th Street at its intersection of Plimpton Avenue, Bronx, New York, when defendant's motor vehicle forcibly struck the vehicle of the plaintiff causing a collision

52. That as a result of the aforesaid contact, Plaintiff, **MANUEL A. RODRIGUEZ**, was injured.

53. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the Defendants without any fault or negligence on the part of the Plaintiff contributing thereto.

54. That Defendants were negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid vehicle and the Defendants was otherwise negligent, careless and reckless under the circumstances then and there prevailing.

55. That by reason of the foregoing, Plaintiff, **MANUEL A. RODRIGUEZ**, sustained severe and permanent personal injuries and was otherwise damaged.

56. That Plaintiff, **MANUEL A. RODRIGUEZ** sustained serious injuries as defined by §5102(d) of the Insurance Law of the State of New York.

57. That Plaintiff, **MANUEL A. RODRIGUEZ**, sustained serious injuries and economic loss greater than basic economic loss as defined by §5104 of the Insurance Law of the State of New York.

58. That Plaintiff, **MANUEL A. RODRIGUEZ**, is not seeking to recover any damages for which Plaintiff has been reimbursed by no-fault insurance and/or for which no-fault insurance is obligated to reimburse Plaintiff. Plaintiff is seeking to recover only those damages not recoverable through no-fault insurance under the facts and circumstances in this action.

59. That this action falls within one or more of the exceptions set forth in CPLR §1602.

60. That by reason of the foregoing, Plaintiff, **MANUEL A. RODRIGUEZ**, has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff, **MANUEL A. RODRIGUEZ**, demands judgment against the Defendants, **THE COUNTY OF ROCKLAND, TOWN OF CLARKSTOWN POLICE DEPARTMENT, EAN HOLDINGS LLC and WILLIAM A. GOMEZ**, on all causes of action, in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

DATED: Brooklyn, New York
June 17, 2019

Yours, etc.,

OFSHTEIN LAW FIRM, P.C.
Attorney for Plaintiff(s)
MANUEL A. RODRIGUEZ
15 Bay 29th Street, 2nd Floor
Brooklyn, NY 11214
(718)455-5252
File # 19MMX5058

BY:

AKIVA OFSHTEIN, ESQ

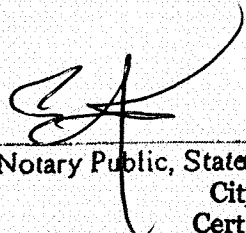
VERIFICATION

STATE OF NEW YORK)ss
COUNTY OF KINGS)

Manuel A. Rodriguez being duly sworn, deposes and says that deponent is the claimant in the within action; that deponent has read the foregoing VERIFIED SUMMONS AND COMPLAINT, and knows the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.

x Manuel Ant Rodriguez

Sworn to before me this 17 day,
of June, 2019


Eugene Kazakevich
Notary Public, State of New York
City of New York, No. 5-1863
Cert. Filed in Richmond County
Commission Expires on May 01, 2021

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.:

MANUEL A. RODRIGUEZ,

Plaintiff,

-against-

THE COUNTY OF ROCKLAND, TOWN OF CLARKSTOWN POLICE DEPARTMENT, EAN HOLDINGS LLC AND
WILLIAM A. GOMEZ,

Defendants,

SUMMONS AND VERIFIED COMPLAINT

OFSHTEIN LAW FIRM PC
Attorneys for Plaintiff
15 Bay 29th Street, 2nd Floor
Brooklyn, New York 11214
718.455-5252

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney duly admitted to practice law before the Court of State of New York, certifies that, upon information and belief and reasonable inquiry, the contention contained in an annexed hereto document are not frivolous.

Dated:

Signature _____

Name: _____

Service of a copy of the within is hereby admitted.

Dated:

Attorneys for Plaintiff

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
entered in the office of the clerk of the within named Court on __, 20__

☐ NOTICE OF SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the Hon. _____ one of
the judges of the within named Court, at _____ on _____ 201__ at _____ M.